

ORDINANCE NO. 27776

AN ORDINANCE OF THE CITY OF SAN JOSE ESTABLISHING A RULE 20A UNDERGROUND UTILITY DISTRICT ALONG BALBACH STREET FROM ALMADEN BOULEVARD TO SOUTH MARKET STREET, WEST WILLIAM STREET FROM THE WESTERLY END OF THE STREET TO SOUTH MARKET STREET, PIERCE AVENUE AND WEST REED STREET FROM ALMADEN AVENUE TO SOUTH MARKET STREET AND ALMADEN AVENUE FROM VIOLA STREET TO WEST REED STREET

WHEREAS, by Resolution No. 73172, the City Council of San Jose set a Public Hearing on June 13, 2006 at 1:30 P.M., in the Council Chambers of the City of San Jose, City Hall, 200 E. Santa Clara Street, at the corner of Fourth and Santa Clara Streets, San Jose, to ascertain whether an Underground Utility District should be established in the area designated as "MARKET/ALMADEN UNDERGROUND UTILITY DISTRICT" (hereinafter called "District") and more fully described and shown on EXHIBITS A-1 and A-2 hereto; and

WHEREAS, written notice of the Public Hearing has been given pursuant to Section 15.24.050 of the San Jose Municipal Code, such hearing has been duly and regularly held, and all persons interested have been given a reasonable opportunity to be heard; and

WHEREAS, the criteria to form a district as set forth in San Jose Municipal Code Section 15.24.060 include:

- a. Removal of overhead wires and placement underground will eliminate an unusually heavy concentration of poles and overhead wires within the Proposed District; and
- b. Public streets or rights-of-way within the Proposed District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic; and;

- c. Public streets or rights-of-way within the Proposed District adjoin or pass through a civic area or public recreation area or an area of unusual scenic interest to the general public; and

WHEREAS, pursuant to Section 15.24.060 of the San Jose Municipal Code, the City Council hereby finds and determines, based on evidence presented at the Public Hearing including the memorandum from the Director of Public Works dated May 22, 2006, and attached hereto as Exhibit A-3, that the above conditions exist within the proposed district, and public necessity, health, safety, and welfare require and it is in the general public interest that existing poles and overhead wires within the District be removed therefrom and thereafter prohibited and that wires and associated facilities within the District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat, power, telephone, telegraph, communication, television, or other similar or associated service be installed underground; and

WHEREAS, on April 4, 2006, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15302 of the California Environmental Quality Act of 1970, as amended, under File No. PP06-050.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Jose:

SECTION 1. The City Council hereby declares that a certain area of the City of San Jose described and shown on EXHIBITS A-1 and A-2, attached hereto, made a part hereof, and incorporated herein by reference is established as an underground utility district to be designated "MARKET/ALMADEN UNDERGROUND UTILITY DISTRICT" and orders and requires that existing poles and overhead wires within said District be removed therefrom by the operators of the utilities and thereafter prohibited and that wires and associated facilities within said District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat,

power, telephone, telegraph, communication, television, or other similar or associated service be installed underground subject to all of the provisions and exceptions contained in Part 3, Chapter 15.24, of the San Jose Municipal Code.

SECTION 2. Existing poles and overhead wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be removed by the operators of the utilities no later than December 31, 2008.

Wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be installed underground no later than December 31, 2008.

Persons owning any property as shown on the last equalized assessment roll served by overhead service drops which are extended from poles or spans located within the District must be ready to receive light, heat, power, telephone, telegraph, communications, television, or other similar or associated service by means of underground wires and facilities no later than December 31, 2008.

SECTION 3. The City Council does hereby request that the Pacific Gas & Electric Company and AT&T is this provide payment, computed pursuant to Rule 20 and Rule 32 respectively for the installation of no more than one hundred (100) feet (measured from the property line) of trenching, excavation, conduit installation, backfill, and surface restoration of each customer's individual service lateral to each qualifying premise affected by the District.

SECTION 4. The City Council does hereby request that the Pacific Gas & Electric

Company pay, from the existing Rule 20A allocation, for the conversion of electric service panels to accept underground service, up to \$1,500 per service entrance, excluding permit fees.

SECTION 5. Within twenty (20) days of the effective date of this ordinance, the Director of Public Works shall give written notice to all affected Utilities owning, possessing, or controlling any poles or overhead wires in the district and all owners and occupants of property affected by said District as required by Sections 15.24.150 and 15.24.160 of the San Jose Municipal Code.

SECTION 6. In lieu of a notice to the Utility Companies for disconnection of service pursuant to Section 15.24.140 of the San Jose Municipal Code, the Director of Public Works may give an additional notice to any noncompliant property owners or occupants in said District pursuant to Section 15.24.170 of the San Jose Municipal Code.

SECTION 7. The Director of Public Works is hereby empowered to extend the time for any act required under this ordinance for the period of time and for the reasons set forth in Section 15.24.180 of the San Jose Municipal Code.

PASSED FOR PUBLICATION of title this 13th day of June, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS; GONZALES

NOES: NONE

ABSENT: YEAGER

DISQUALIFIED: NONE

ATTEST:



LEE PRICE, MMC
City Clerk

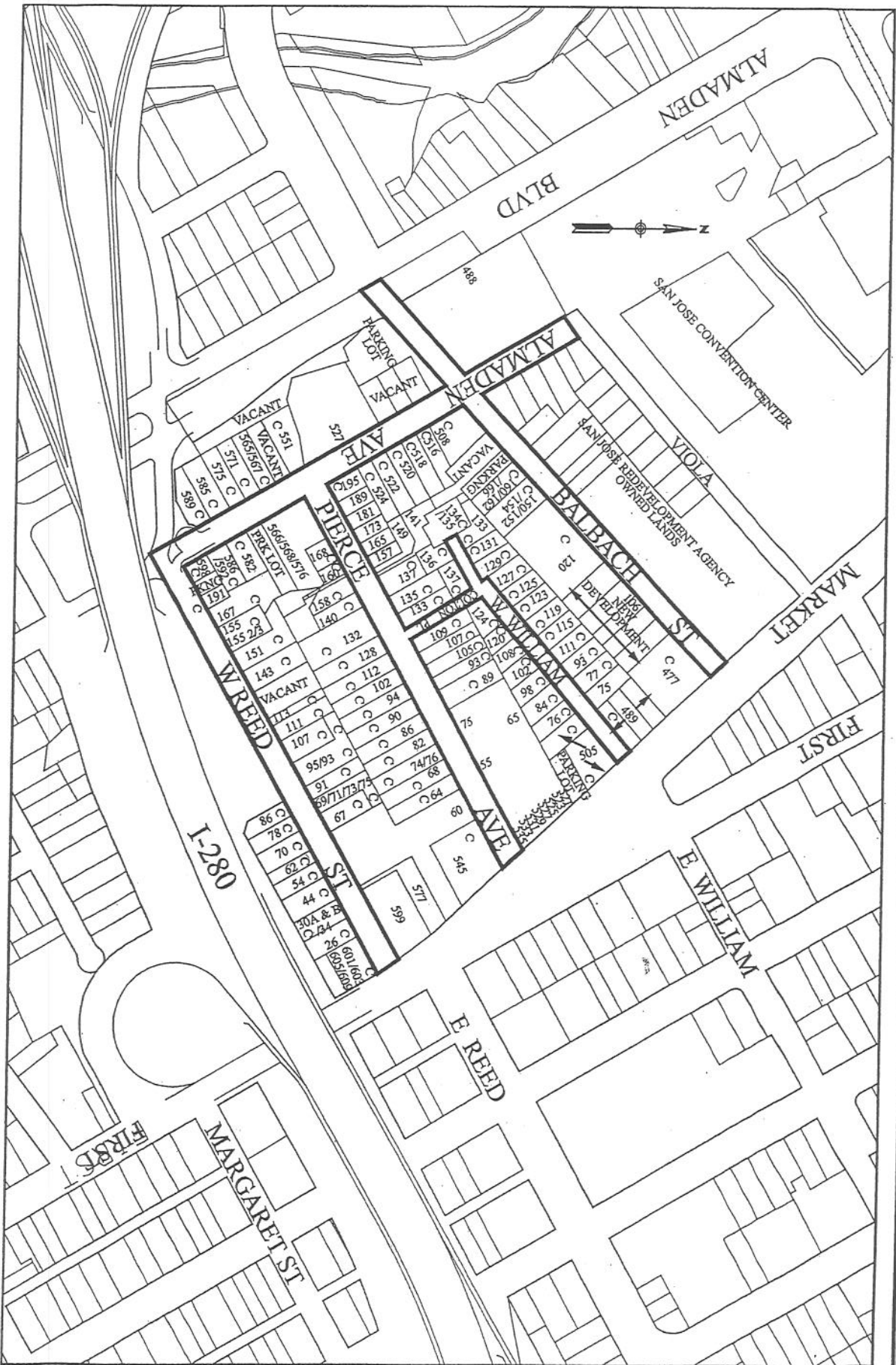


RON GONZALES
Mayor

Attachments:

Exhibit A-1, Map
Exhibit A-2, Description
Exhibit A-3, Staff Memorandum

EXHIBIT A-1



PROJECT
BOUNDARY

C DENOTES PROPERTY REQUIRING ELECTRICAL
SERVICE CONVERSION

CITY OF SAN JOSE
PROPOSED
MARKET/ALMADEN
UNDERGROUND UTILITY DISTRICT

NOT TO SCALE

EXHIBIT A-2

DESCRIPTION OF PROPOSED BOUNDARY OF AN UNDERGROUND UTILITY DISTRICT ALONG BALBACH STREET FROM ALMADEN BOULEVARD TO SOUTH MARKET STREET, WEST WILLIAM STREET FROM THE WESTERLY END OF THE STREET TO SOUTH MARKET STREET, PIERCE AVENUE AND WEST REED STREET FROM ALMADEN AVENUE TO SOUTH MARKET STREET AND ALMADEN AVENUE FROM VIOLA STREET TO WEST REED STREET

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

BEGINNING at a true point at the intersection of the northerly right-of-way line of Balbach Street and the centerline of Almaden Boulevard;

THENCE proceeding in a northeasterly direction $300\pm'$ along the northerly right-of-way line of Balbach Street to a point of intersection with the westerly right-of-way line of Almaden Avenue;

THENCE proceeding in a northwesterly direction $270\pm'$ along the westerly right-of-way line of Almaden Avenue to a point of intersection with the southerly right-of-way extension line of Viola Street;

THENCE proceeding in a northeasterly direction $70\pm'$ perpendicular to the centerline of Almaden Avenue to a point of intersection with the easterly right-of-way line of Almaden Avenue;

THENCE proceeding in a southeasterly direction $260\pm'$ along the easterly right-of-way line of Almaden Avenue to a point of intersection with the northerly right-of-way line of Balbach Street;

THENCE proceeding in a northeasterly direction $850\pm'$ along the northerly right-of-way line of Balbach Street to a point of intersection with the westerly right-of-way line of Market Street;

THENCE proceeding in a southeasterly direction $50\pm'$ parallel to the centerline of Market Street to a point of intersection with the southerly right-of-way line of Balbach Street;

THENCE proceeding in a southwesterly direction $860\pm'$ along the southerly right-of-way line of Balbach Street to a point of intersection with the easterly right-of-way line of Almaden Avenue;

THENCE proceeding in a southeasterly direction $370\pm'$ along the easterly right-of-way

line of Almaden Avenue to a point of intersection with the northerly right-of-way line of Pierce Avenue;

THENCE proceeding in a northeasterly direction 390±' along the northerly right-of-way line of Pierce Avenue to a point of intersection with the westerly right-of-way line of Colton Place;

THENCE proceeding in a northwesterly direction 180±' along the westerly right-of-way line of Colton Place to a point of intersection with the southerly right-of-way line of West William Street;

THENCE proceeding in a southwesterly direction 130±' along the southerly right-of-way line of West William Street to a point of intersection with the westerly right-of-way line of West William Street;

THENCE proceeding in a northwesterly direction 30±' along the westerly right-of-way line of West William Street to a point of intersection with the northerly right-of-way line of West William Street;

THENCE proceeding in a northeasterly direction 125±' along the northerly right-of-way line of West William Street to a point of intersection with the westerly right-of-way extension line of Colton Place;

THENCE proceeding in a northwesterly direction 15±' parallel to the westerly right-of-way line of Colton Place to a point of intersection with the northerly right-of-way line of West William Street;

THENCE proceeding in a northeasterly direction 530±' along the northerly right-of-way line of West William Street to a point of intersection with the westerly right-of-way line of Market Street;

THENCE proceeding in a southeasterly direction 40±' parallel to the centerline of Market Street to a point of intersection with the southerly right-of-way line of West William Street;

THENCE proceeding in a southwesterly direction 500±' along the southerly right-of-way line of West William Street to a point of intersection with the easterly right-of-way line of Colton Place;

THENCE proceeding in a southeasterly direction 190±' along the easterly right-of-way line of Colton Place to a point of intersection with the northerly right-of-way line of Pierce Avenue;

THENCE proceeding in a northeasterly direction 560±' along the northerly right-of-way line of Pierce Avenue to a point of intersection with the westerly right-of-way line of South First Street;

THENCE proceeding in a southeasterly direction $60\pm'$ parallel with the centerline of South First Street to a point of intersection with the southerly right-of-way line of Pierce Avenue;

THENCE proceeding in a southwesterly direction $980\pm'$ along the southerly right-of-way line of Pierce Avenue to a point of intersection with the easterly right-of-way line of Almaden Avenue;

THENCE proceeding in a southeasterly direction $320\pm'$ along the easterly right-of-way line of Almaden Avenue to a point of intersection with the northerly right-of-way line of West Reed Street;

THENCE proceeding in a northeasterly direction $1,050\pm'$ along the northerly right-of-way line of West Reed Street to a point of intersection with the westerly right-of-way line of South First Street;

THENCE proceeding in a southeasterly direction $60\pm'$ perpendicular to the centerline of West Reed Street to a point of intersection with the southerly right-of-way line of West Reed Street;

THENCE proceeding in a southwesterly direction $1,120\pm'$ along the southerly right-of-way-line of West Reed Street to a point of intersection with the westerly right-of-way line of Almaden Avenue;

THENCE proceeding in northwesterly direction $790\pm'$ along the westerly right-of-way line of Almaden Avenue to a point of intersection with the southerly right-of-way line of Balbach Street;

THENCE proceeding in a southwesterly direction $300\pm'$ along the southerly right-of-way of Balbach Street to a point of intersection with the centerline of Almaden Boulevard;

THENCE proceeding in a northwesterly direction $50\pm'$ along the centerline of Almaden Boulevard to the true point of beginning.

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EXHIBIT A-3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

**SUBJECT: MARKET/ALMADEN
UNDERGROUND UTILITY
DISTRICT**

DATE: 04-19-06

Approved

Date

Council District: 3

RECOMMENDATION

Adoption of a resolution to consider the establishment of a Rule 20A Underground Utility District along Balbach Street from Almaden Boulevard to South Market Street, West William Street from the westerly end of the street to S. Market Street, Pierce Avenue and West Reed Street from Almaden Avenue to South Market Street and Almaden Avenue from Viola Street to West Reed Street, setting a public hearing on June 13, 2006, at 1:30 p.m.
CEQA: TBD

EXECUTIVE SUMMARY

City staff recommends setting a public hearing for the proposed Market/Almaden Underground Utility District in order to meet the requirements of Section 15.24 of the Municipal Code for the establishment of an underground utility district. Establishing an ordinance for an underground utility district will require utility companies to remove utility poles and aerial cables from the City right-of-way. The proposed project is located along Balbach Street from Almaden Boulevard to South Market Street, West William Street from the westerly end of the street to South Market Street, Pierce Avenue and West Reed Street from Almaden Avenue to South Market Street and Almaden Avenue from Viola Street to West Reed Street. The project will be funded by utility company funds designated by Rules 20A and 32 of the California Public Utilities Commission and the City's settlement agreement with Comcast.

BACKGROUND

The Department of Public Works manages the Rule 20A Underground Utility Program for the City of San José. Through Rule 20A, the California Public Utilities Commission requires Pacific Gas and Electric Company (PG&E) to annually set aside funds for financing the undergrounding

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of overhead distribution facilities located on public streets within the City of San José. The California Public Utilities Commission (CPUC) also requires AT&T (formerly SBC), through Rule 32, to set aside funds for undergrounding its facilities where PG&E has been required to underground. Comcast is required by its settlement agreement with the City to budget funds to similarly participate in projects where the PG&E Rule 20A and AT&T Rule 32 funds are programmed for undergrounding.

The proposed Market/Almaden Underground Utility District (District) is included in the 2004/05 – 2009/10 Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program Five Year Workplan reported to Council on March 23, 2005. It meets criteria approved by the CPUC and the criteria established by the City in 1978 and 1987 to complete projects in the Downtown Core Area and in Redevelopment or Neighborhood Business District areas.

ANALYSIS

The five-year workplan shows the proposed District to be legislated in year 2006, with funding from Rule 20A funds.

The provisions and procedures to establish underground utility districts are defined in Chapter 15.24 of the San José Municipal Code. The Code requires the Council to conduct a public hearing and adopt an ordinance prior to the establishment of an underground utility district. The proposed District also meets the following California Public Utilities Commission and Municipal Code criteria for establishing underground utility districts:

- Such removal and replacement underground will eliminate, and such prohibition will avoid, an unusually heavy concentration of poles and overhead wires within said area.
- The public streets or rights-of-way within said area are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic.
- The street or road or right-of-way is considered an arterial or major collector as defined in the Governor's Office of Planning and Research General Plan Guidelines.

Establishment of the proposed District, as shown on Attachment A, will require the conversion of approximately 5,200 linear feet of aerial facilities to underground facilities along Balbach Street from Almaden Boulevard to South Market Street, West William Street from the westerly end of the street to South Market Street, Pierce Avenue and West Reed Street from Almaden Avenue to South Market Street and Almaden Avenue from Viola Street to West Reed Street.

Within the limits of this project, PG&E is proposing to install approximately xx aboveground structures (cabinets). These cabinets will be placed on private properties, subject to property owners granting easements to PG&E. Should the requests for easements be denied, PG&E may be

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able to use 20A monies to pay to install these structures underground. Alternatively, the City may be required to pay Special Facilities fees to PG&E to install these structures underground. The estimated cost per structure is \$2,500 to \$5,000 each with a total cost of approximately \$AA,000 to \$BB,000 for the undergrounding of xx cabinets within the project area.

Overall, the removal of aerial wires and utility poles will provide a significant visual benefit to the public.

There are approximately 148 properties adjacent to the proposed District. Ninety-two of the 148 properties receive overhead service from facilities that the proposed project will underground. This will require private property owners to perform electrical service panel conversion work on their properties. The cost of conversion for a single-family residential dwelling is typically \$800 to \$2,500. The cost can be significantly higher for multi-family and commercial/business buildings. The Public Utilities Commission provides that Rule 20A monies may be utilized to reimburse private property owner's expenses for conversion work up to \$1,500 per service entrance. Additionally, PG&E, Comcast and AT&T will provide up to 100 feet of trenching and conduit installation for properties requiring conversion within the District, from the front property line to the building structure. The remaining 56 properties receive utility service from outside the proposed District boundaries and will not be affected by this project.

The utility companies will obtain all environmental clearances prior to construction of the project.

A schedule for the establishment and implementation of the proposed District is presented in Attachment B.

OUTCOMES

Approval of this resolution will enable Council and City staff to hold a public hearing in accordance with the Municipal Code and result in the establishment of the Market/Almaden Underground Utility District. Establishment of this District will improve the appearance, pedestrian mobility and ease of utility equipment maintenance.

PUBLIC OUTREACH

A community meeting was held on March 21, 2006, to inform the public of this undergrounding project. Results of the community will be provided after the meeting. City staff also presented PG&E's desire to obtain no-cost easements to install xx aboveground cabinets in easements on private properties.

The community's comments on aboveground cabinets will be provided at a later date. If property

owners refuse to grant easements, then PG&E would have to find alternate solutions for the installation of their equipment.

Upon Council's adoption of a resolution setting a public hearing, staff will send notices of the public hearing to all utility companies and owners and occupants of properties adjoining the proposed District.

Prior to the start of construction activities, PG&E will place "Door Hanger" construction notices on adjacent properties.

COORDINATION

The establishment of the proposed District and project schedule has been coordinated with PG&E, AT&T, Comcast, the Market Almaden Neighborhood Association and the San José Redevelopment Agency. The required resolution to set the public hearing has been reviewed by the City Attorney's Office.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: None

2. COST OF PROJECT (ESTIMATED):

COST TO UTILITIES:

PG&E Rule 20A Allocation	\$1,019,000
AT&T Rule 32	842,000
Comcast	354,000
Total Cost to Utility Companies	\$2,215,000

COST TO CITY:

Project Development, Administration and Construction Inspection (Fund 416)	\$ 215,000
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Construction:

City Facilities Conversion (20A) (Fund 429)	170,000
Total Cost to City	\$ 385,000

TOTAL PROJECT COSTS (ESTIMATED): **\$2,600,000**

3. SOURCE OF FUNDING: Fund 416 - Underground Utility Fund
Fund 429 - Building and Structure

Construction Tax Fund

4. **FISCAL IMPACT:** This project is consistent with the Council-approved Budget Strategy for Economic Recovery section in that it will spur construction in our local economy and have no significant impact on the General Fund.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract*	2005-2006 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs**				\$385,000			
Current Funding Available							
429	5063	Underground Utilities-City Conversions	TBD	\$150,000	0	V-1054	
416	4786	Underground Utility Administration (20A)	128089	\$221,000	0	V-130	
Total Current Funding Available				\$371,000	0		

*Project Development costs of \$3,000 are anticipated in 2005-2006. In addition, remaining City project costs of \$382,000 are anticipated in FY2006-2007, FY2007-2008 and FY2008-2009. Funding for these remaining project costs has been programmed in the 2006-2010 Adopted Traffic and Developer Assisted Projects CIP's.

CEQA

TBD

KATY ALLEN
Director, Public Works Department

CM:SK:
(lr0317006Market-AlmadenMarket-Almaden.doc)
Attachments

UNDERGROUND UTILITY DISTRICT ALONG BALBACH STREET FROM ALMADEN BOULEVARD TO SOUTH MARKET STREET, WEST WILLIAM STREET FROM THE WESTERLY END OF THE STREET TO SOUTH MARKET STREET, PIERCE AVENUE AND WEST REED STREET FROM ALMADEN AVENUE TO SOUTH MARKET STREET AND ALMADEN AVENUE FROM VIOLA STREET TO WEST REED STREET

Establishment Schedule

May 9, 2006	City Council adopts a resolution setting a time and place for a Public Hearing.
May 10, 2006	Director of Public Works mails a notice of Public Hearing to all adjacent property owners.
June 12, 2006	Director of Public Works transmits a report of comments and/or protests received for consideration at the Public Hearing.
June 13, 2006	City Council conducts a Public Hearing and at its conclusion approves an Ordinance establishing an Underground Utility District along Balbach Street from Almaden Boulevard to S. Market Street, WEST William Street from the westerly end of the street to S. Market Street, Pierce Avenue and WEST Reed Street from Almaden Avenue to S. Market Street and Almaden Avenue from Viola Street to WEST Reed Street.

Project Implementation Schedule

July 2006	Utility companies begin design of substructure, conduit, vaults, electric and cable facilities.
October 2006	Utilities obtain environmental clearances.
November 2007	Construction starts
December 2008	Utility companies complete connections and remove overhead wires and poles.